

### REMARKS-General

1. With regard to the rejection of record based on prior art, Applicant will advance arguments to illustrate the manner in which the invention defined by the newly introduced claims is patentably distinguishable from the prior art of record. Reconsideration of the present application is requested.

#### Response to Rejection of Claims 54-72, 76, 79-86 and 88 under 35USC103

2. The Examiner rejected claims 54-72, 76, 79-86 and 88 under 35USC103(a) as being unpatentable over Goldenberg (US 2002/0065682) in view of Evers et al. (US 5,558,638). Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

3. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

4. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Goldenberg which is qualified as prior art of the instant invention under 35USC102(e) are obvious in view of Evers et al. at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

5. The applicant respectfully submits that the differences between the instant invention and Goldenberg are not obvious in view of Evers et al. under 35USC103(a), due to the following reasons:

(A) The examiner is of the view that Goldenberg anticipate the method of providing distance-treatment for registered users as follows:

(i) step (a) recites providing an information connection system comprising a computer, a visual signal producer and an audio signal producer, wherein the information connection system is arranged to be capable of communicating with a service provider through the Internet. The examiner refers to paragraphs 0009, 0010, 0011, 0015, 0038, 0054, 0059, 0061 and Fig. 8 of Goldenberg. With respect to paragraphs 0009 and 0011, Goldenberg merely discloses "An embodiment of the present invention is directed to providing a user with multiple levels of service to accommodate the user's specific needs. This and other features of the invention utilize a networked computer system which communicates with the user and allows the user access to one or more levels of service..." No such levels of services are recited in the instant invention.

(ii) step (b) recites verifying and admitting the registered user to login the service provider through the Internet. The examiner cites paragraphs 0027, 0042 and 0044 of Goldenberg. Paragraphs 0027 recites a system according to the invention can be implemented in **multiple levels on a network**. Paragraphs 0042 recites one possible introductory process responsive to user access. In Paragraph 0044, access level determination must be made. In one method, users subscribe to various access levels. The information is stored in a database and in the same manner as determining whether a user is a subscriber, the user's **authorized level of access** is determined. Different levels of service may be priced differently. Therefore, before actually granting access to the service, the system could also be programmed to verify that a user's account is current or to advise the user that the level of service required will incur a certain cost and request the user's credit card number or other payment method. No such disclosure is present in step (b).

(iii) step (c) recites receiving a treatment request from the information connection system according to a diagnosis record of the registered user through the

Internet. The examiner cites Paragraphs 0011, 0016 and 0042 of Goldenberg. Paragraph 0011 describes that the various levels of service. For example, "...the first level of service is primarily informational, allowing a user to request information at the specific level of sophistication appropriate to the user's ability to use the information. At a second level of service the user can comment on the adequacy of the information and the system can determine if referral to a professional is necessary. At a third level of service a client-professional relationship is established and a professional advises the patient concerning the information needed and other actions which should be taken. At this level, the system can also identify several professionals who should form a team to advise the patient. At a fourth level of service, the system physically interacts with the patient, using monitoring devices or treatment devices. The system communicates messages to and from the devices to monitor patient parameters and to administer management advice, including monitoring or treatment, such as with drugs or other chemicals". In Paragraph 0016, Goldenberg discloses that the method includes determining a desired level of service access for the user. The method further includes accepting an inquiry from the user and composing a search request based on the user inquiry. Paragraph 0042 illustrates one possible introductory process responsive to user access. When the user accesses the system in step 301 the system reads an inquiry from the user and recognizes it as an inquiry. Thus, Goldenberg merely describes the various level of services in the disclosed. It does not specifically teach receiving a treatment request based on a ***separately obtained diagnosis record***.

(iv) step (d) recites that based on the treatment request and a health information profile preset for the registered user in the service provider, selecting a treatment information data package from a treatment information database provided by the service provider. The examiner cites Paragraphs 0011, 0016, 0017, 0055 and 0059. Paragraph 0055 recites that in a typical application of level 4 processing, at step 701 patient parameters which are being monitored are identified. The parameters could be included in a list and updated either periodically, at the same time, or at different times depending on the physical parameters being monitored and tested. At step 702 the processor will transmit a message to monitor the specific parameters. Depending on the equipment being used, the processor may be required to format the message into data that can be understood and processed by the particular monitoring device. When step 702 indicates that parameters have been checked, at step 703 the parameters are

tested to indicate whether the patient requires treatment. If the patient does not require treatment, then at step 704 the information on the parameters is simply recorded and any other level 4 functions which are needed are performed at step 705. If, however, the parameters indicate that the patient does need treatment, then at step 706 it is determined whether the patient is equipped for online treatment. This can be determined either by a database listing or by sending a test message to determine whether the equipment is present at the remote location. The test message has the advantage of not only determining whether the equipment is present, but whether it is connected to the patient and is operational. If the patient is not equipped for online treatment either because the patient does not have the equipment or because the equipment is not operating, at step 707 a message is sent to the treating physicians and to the patient. Control then passes to step 705 which performs other level 4 functions and then terminates the session. At Paragraph 0059, Goldenberg recites that the treatment device 806 and the monitoring device 808 are adapted to be connected to the patient. In this way, ***patient information, such as blood test results, vital signs, images of the patient, etc., may be monitored by the monitoring device 808 and transmitted over the network 804 to the server 802.*** Further, treatments, such as performing a blood test, taking an image of the patient, delivering a drug into the patient, etc., may be administered to the patient by the treatment device 806. The treatment device 806 may be internal or external to the patient's body. It is clear that a treatment device may include, without limitation, both therapeutic and diagnostic equipment and that a treatment device can perform both therapeutic and diagnostic procedures. Further, a treatment signal may then include a signal from/to either a diagnostic or a therapeutic device. Additionally, a monitoring device may perform a variety of functions that are considered to be diagnostic. Step (d) merely teaches to select a treatment information data package from a treatment information database, and not to perform any treatment at all. Moreover, the diagnostic procedures are performed by external medical health care providers, such as a doctor or an oriental doctor. There is no diagnosis component in the instant invention.

(v) step (e) recites sending digital treatment signals of the treatment information data package to the computer of the information connection system through the Internet ***to initiate a treatment*** operated by the information connection system on the registered user, wherein the treatment is selected from a group consisting of ***an***

**audio and visual treatment** to the registered user via the audio device and the monitor respectively. The examiner cites Paragraphs 0017, 0027, 0062. Paragraph 0062 says that there are many ways in which a practitioner may control the treatment of a patient. A monitoring device or monitoring equipment may **communicate the patient's body functions or chemistry to a central monitoring system**. A monitoring device can also transmit health-related information about a user over the network to the server for use by a team of professionals in treating the health-related issue of the patient. The information can be used for **diagnostic and therapeutic** purposes. In the latter case, a treatment signal, i.e., a telemedicine signal, can be transmitted over the network to a treatment device or treatment equipment connected to the patient. **A treatment device may be separate from or integrated with a monitoring device**. Moreover, the device may deliver a treatment **using myriad methods**. For example, it may stimulate the patient with an electrical or other impulse, or it may release a chemical or drug. The applicant respectfully submits that there is no diagnostic component for the instant invention. Moreover, the treatment consists of audio and visual treatment, whereas in Goldenberg, the monitoring equipment, although an audio technology, is not used for treatment, but for monitoring the treatment progress.

(vi) step (f) recites feeding back a responsive health information of the registered user to the service provider for controlling and adjusting properties of the digital treatment signals of the treatment information data package to be sent from the service provider to the information connection system of the registered user. The examiner cites Paragraphs 0056 of Goldenberg, which states that if at step 706 it is determined that the patient is equipped for online treatment, then at step 708 information is transmitted in a format that can be recognized by the treatment equipment to apply the treatment to the patient. For example, the processor could command the treatment device **to inject the patient with drugs or other chemicals**. At step 709 the patient's reactions are monitored. If at step 710 the processor determines that the patient's reactions are normal, then at step 711 the parameters are recorded and other level 4 functions can then be performed. On the other hand, if at step 710 the processor determines that the patient's reactions are out of the normal range, then a message is sent at step 712 to the patient and to the health care professional and monitoring continues at step 709. The remote treatment may also be performed in increments, with monitoring between successive treatment steps. An incremental approach thus allows

further treatment after an abnormal reaction. Thus, the feedback involved in Goldenberg is in response to drug administration. In the instant invention, however, the feedback is in response to **audio and visual treatment**.

(vii) Step (g) recites decoding the digital treatment signals into analog treatment signals which are sent to the computer to program and control the treatment of the registered user when the treatment instrument is an analog type treatment instrument. Since the treatment offered by the instant invention is for audio and visual treatment, decoding the digital treatment signals is therefore necessary for complete technical accomplishments of the instant invention. Since Goldenberg does not involve **audio and visual treatment**, especially when they are related to oriental medical theories, one having ordinary skill in the art would not have obviously combined Goldenberg with Evers et al. in order to produce the instant invention.

(B) The examiner is of the view that it would have been obvious for one having ordinary skill in the art to modify the teaching of Goldenberg with the decoding technique disclosed in Evers et al. in order to produce the instant invention. The applicant respectfully disagrees. Goldenberg discloses a remote treatment and diagnosis system which is different from the one disclosed in the instant invention as mentioned above. The most striking differences between the instant invention and Goldenberg are that the instant invention relates merely to **visual and audio treatments**, and that the instant invention does not concern with diagnosis process. On the other hand, Goldenberg's invention relates both to diagnosis and treatment, and that the treatment relates medically intrusive procedures, such as taking of blood sample from a patient. Moreover, it is very obvious that Goldenberg does not concern with oriental medicine theory in carrying out diagnosis and treatment procedures. Since decoding of digital treatment signal depends on what the treatment is, one having ordinary skill in the art would not have been able to combine Goldenberg with Evers et al. in order to produce the instant invention, especially when Goldenberg does not disclose the same treatment system as recited in the instant invention.

(C) As a result, In any case, even combining Goldenberg and Evers et al. would not provide the invention as claimed -- a clear indicia of nonobviousness. Ex parte Schwartz, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992). That is, modifying Goldenberg with Evers et al., as proposed by the Examiner, would not provide

the instant invention because Goldenberg actually accomplish a distance treatment and diagnosis system which is not identical to the instant invention as recited in claim 54.

(D) Regarding claim 56, it recites that the method, before step (a), further comprises a step of providing the treatment information database and a health information database for the service provider, wherein the treatment information database includes a plurality of treatment information with respect to different kinds of classified health problem and the health information database includes health information profiles established for the registered users respectively, wherein each of the health information profiles includes a personal general information and a personal health information of the respective registered user. The examiner cites Paragraphs 0042, 0044 and 0047 of Goldenberg. The applicant respectfully submits that Goldenberg does not involve the step of providing treatment information database and a health information database for the service provider, because the instant invention does not relate to **management of level of access**.

(E) Indeed, the only mention of visual and audio treatment in relation to oriental medicine theory is in applicants own specification and claims. Accordingly, it appears that the Examiner has fallen victim to the insidious effect of a hindsight analysis syndrome where that which only the inventor taught is used against the teacher in W.L. Gore and Associates v. Garlock, Inc., 220 USPQ 303, 312-313 (Fed. Cir. 1983) cert. denied, 469 U.S. 851 (1984).

(F) The Court of Appeal of the Federal Circuit has stated, “[V]irtually all [inventions] are combinations of old elements.” Environmental Designs, Ltd. V. Union Oil Co., 713 F.2d 693, 698, 218 USPQ 865, 870 (Fed. Cir. 1983); see also Richdel, Inc. v. Sunspool Corp., 714 F.2d 1573, 1579-80, 219 USPQ 8, 12 (Fed. Cir. 1983). Thus, “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” In re Fine, 5 USPQ 2d 1600 (Fed. Cir. 1988). The obviousness cannot be shown by combining the teachings of the prior art unless there is some teaching or incentive supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984); In re Geiger, 815 F.2d at 688, 2 USPQ2d at 1278 (Fed. Cir.1987). In the instant invention, since Goldenberg does not teach, motivate or

suggest the distance treatment method disclosed in the instant invention. Thus, there is nothing for one having ordinary skill in the art to combine with Evers et al.

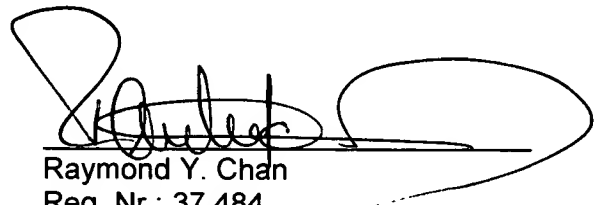
6. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

7. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

8. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 54-72, 76, 79-86 and 88-91 at an early date is solicited.

9. Should the examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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#### CERTIFICATE OF MAILING

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